

Subject: RE: OSC Klein v Leis (fwd)
From: Joe Eaton <joe.eaton@xxxxxxxxxxx.com>
Date: Fri, 3 Oct 2003 10:16:02 -0500 (CDT)
To: joe.eaton@xxxxxxxxxxx.com

----- Forwarded message -----
Date: Fri, 3 Oct 2003 10:12:38 -0500 (CDT)
From: Joe Eaton <j.eaton@xxxxxxxxxxx.com>
To: "Becker, Bill" <Billb@ci.middletown.oh.us>
Cc: "Landen, Les" <lesl@ci.middletown.oh.us>
Subject: RE: OSC Klein v Leis

Chief Becker,

Thank you, I really appreciate the quick and thorough response. I have also received a response from Mr. Bruce Fassler, the City of Middletown Prosecutor and was made know of Section 644.17 which prohibits firearms at or near parades. Who should I contact to be made aware of when and where parade permits are granted so that I do not unintentionally come in violation of Section 644.17?

Thanks again for your service to the people of Middletown.
Joe Eaton

644.17 DANGEROUS WEAPONS.

(a) No person participating in, present at, or within 500 feet of, a parade, and while in a public place, shall possess a firearm or dangerous weapon of any kind.

(b) As used in this section, "dangerous weapon" means any device designed or capable of being used to inflict serious injury upon a person or property, including, but not limited to, firearms, knives of any kind having a blade in excess of three inches in length, razors and razor blades, metallic knuckles, clubs, blackjacks and night sticks, mace, dynamite cartridges, bombs, grenades, mines and other powerful explosives and loaded canes. As used in this section, "club" includes any metal pipe or rod of any thickness and any wooden instrument or device thicker than one inch or wider than three-fourths of an inch.

(c) This section shall not apply to the following persons while acting lawfully and within the scope of their duties and authority:

- (1) Law enforcement officers;
- (2) Officers and soldiers of the Armed Forces, militia and National Guard;
and
- (3) Students of military science, in an accredited program, who are participating in a parade.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree. Punishment shall be as provided in Section 698.02. (Ord. 080-98. Passed 6-3-80.)

On Fri, 3 Oct 2003, Becker, Bill wrote:

Dear Mr. Eaton,

There is no current provision in state law or our local ordinance to prohibit the carrying of a firearm which is not concealed.

AS you are probably aware there are provisions against carrying a loaded firearm in a vehicle, in a liquor establishment, in a school safety zone, or in a school building, or in any city park. There are also provisions against

carrying a weapon in most government buildings. Any privately owned, company or business establishment has the right to forbid the carrying or bringing of weapons into their place of business.

If we were to receive a call from a citizen, our officers would respond to the call and investigate the circumstances taking whatever action they felt necessary under the situation as it presented itself.

I hope this explanation is helpful.

Our local ordinances can be found on the city's website (www.ci.middletown.oh.us) the majority of these sections are found in Chapter 672 and 1070 of our ordinances.

-----Original Message-----

From: Joe Eaton [<mailto:j.eaton@xxxxxxxxxxx.com>]
Sent: Tuesday, September 30, 2003 3:32 PM
To: billb@ci.middletown.oh.us
Subject: OSC Klein v Leis

Chief Becker,
Chief of Police Middletown Ohio.

On Wednesday, September 24th, 2003 the Ohio Supreme Court ruled in Klein v. Leis indicating Ohio Revised Code 2923.12 and 2923.16 (prohibits carrying concealed firearms) are constitutional.

However, the court stated that the fundamental right to bear arms for defense and security, protected by the Ohio Constitution, Article I, Section 4 is protected by a citizens ability to carry a firearm openly in the State of Ohio.

For instance, a citizen can exercise his rights under the Ohio Constitution by carrying a loaded firearm in an openly visible holster, but he may not conceal his firearm.

So long as this citizen is not breaking any other laws that prohibit possession of a firearm, his actions are constitutionally protected.

Based upon this ruling, there are some questions that I would appreciate your answers to:

- 1) Would any person or I be arrested for walking through town with an openly visible firearm holstered on the belt?
- 2) Are there any local ordinances that prohibit this that would be enforced? If so, please cite these ordinances.
- 3) Is there any situation in which a citizen, not otherwise in violation of any law, would be arrested for carrying openly, since this has been deemed by the Supreme Court of Ohio to be the proper way to exercise the fundamental right of bearing arms?

I would appreciate a written response, via USPS, Email (j.eaton@xxxxxxxxxxx.com) or a facsimile sent to my attention at (810)277-2472. You may also contact me by phone at either number listed below.

Sincerely,

Joe Eaton
317 Melanie Drive
Franklin Ohio 45005
Home: xxx-xxx-xxxx

Work: xxx-xxx-xxxx